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EXAMINER

NEWAY, SAMUEL G

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,614
Filing Date: September 30, 2003
Appellant(s): CHU ET AL.

MAILED

FEB 15 2008

Technology Center 2600

James E. Boice
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 28 December 2007 appealing from the Office action mailed 03 August 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal Brief filed 04 February 2008 for related Application Number: 10/674,841.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1 – 5, 7 – 13, 15 – 21, 23, and 25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The specification discloses executing software depending on the location of a computer. The software is executed if the location is determined to be secure. The location is determined either by using GPS or from a local enterprise generated signal. In another embodiment, the specification also discloses executing software when the computer does not detect a GPS signal ([0025]).

Claims 1, 9 and 17 disclose determining the location of a computer (using, for example, a local transmitter, but not GPS) and executing the software only if the location is secure and the computer does not receive, or get information derived from, a GPS. Nowhere in the specification is it recited that these two requirements (executing only if the location is determined to be secure and only if the computer does not receive GPS) should or could occur together. As a matter of fact, the specification in [0025] states that when the computer does not receive a GPS signal, it is assumed that the computer is in a secure location and thus software is executed. It would not be obvious from the specification to one with ordinary skill in the art to further verify the location of the computer by checking if it, in fact, is able to receive a GPS signal when the location has already been determined by other means.

(10) Response to Argument

Applicant's arguments filed 28 December 2007 have been fully considered but they are not persuasive.

As noted above, Appellant's invention is directed to executing software on a computer depending on the location of the computer. The computer's location is determined and software is executed when the computer is deemed to be in an authorized location. As noted in the Appeal Brief (page 5, lines 1-3), in one embodiment authorized location is determined using a local transmitter, in another embodiment, authorized location is presumed if no GPS signal is reaching the computer ("lack of a GPS signal ... enables ... the loading of an application. Thus, an application may be constructed such that if the GPS receiver 122 does not detect a GPS signal, then it is presumed that the client computer 410 is in a secure location, and the application may run" (specification, [0025]).

Claims 1, 9, and 17 require both methods of determining and presuming authorized location at the same time, however this double checking feature was not disclosed in appellant's specification. It would not have been necessary do double checking of the authorized location, and so to combine these two methods, because one would not need to presume a computer's secure location if the computer's location is already determined.

Appellant argues that the two methods are not mutually exclusive (Appeal Brief, page 5, lines 8-10). The Examiner agrees with this assertion. However, the Examiner disagrees with the assertion that "there is no reason for one skilled in the art to presume that only one or the other may occur" (Appeal Brief, page 5, lines 8-10). There is no reason to assume a computer's location if the location is already known.

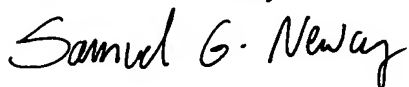
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Samuel G. Neway

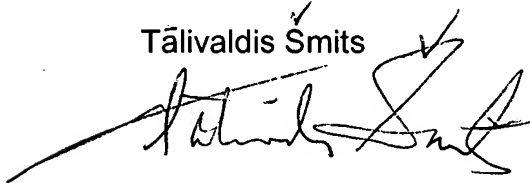


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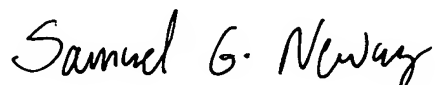
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